



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 6307-99

28 April 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 16 February 1999 at the age of 18. Your record shows that on 2 March 1999 you were convicted by summary court-martial (SCM) of disobedience and assault. You were sentenced to confinement for 25 days and a \$591.79 forfeiture of pay.

Subsequently, you were notified of proposed action for an administrative separation by reason of entry level performance and conduct. You waived your rights to consult with legal counsel and to submit a written statement in rebuttal to the separation. The discharge authority directed you be separated from the Marine Corps with an uncharacterized entry level separation by reason of entry level performance and conduct. On 19 March 1999 you were so separated and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contentions that you would like all derogatory material removed from your record, your

reenlistment code and narrative reason for separation changed, and reinstatement in the Marine Corps. The Board further considered your contention that your court-martial conviction and separation were caused by the aggressive acts of a drill instructor. However, the Board concluded these factors were not sufficient to warrant removal of material from your record, a change in your reenlistment code or narrative reason for separation, or reinstatement in the Marine Corps. The Board noted your disciplinary infractions and failure to complete recruit training. Further, the Board has no authority to remove a court-martial from an individual's record. The Board concluded that your substandard performance and conduct and the reason for your discharge were sufficient to support the assignment of an RE-3F reenlistment code. Further, such a code is normally assigned to individuals who are separated due to their failure to complete recruit training. The Board also noted that a command investigation concluded that your allegations of unfair treatment were without merit. Given all the circumstances of your case, the Board concluded your discharge, reenlistment code, and narrative reason for separation were proper and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director